

Perlindungan hukum bagi pembeli lelang berobjek tanah dalam sengketa perdata (studi kasus putusan Mahkamah Agung nomor 300 pk/pdt/2009) = Legal protection for a purchaser buying a plot of land through an auction in the civil dispute (case study on supreme court decision no 300 pk pdt 2009) / Elizabeth Taruli Lestari Lubis

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Abstrak

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Pembeli lelang yang telah memenuhi prosedur lelang sesuai dengan peraturan perundang-undangan seyogianya dilindungi oleh hukum. Namun, ternyata terdapat putusan yang mengalahkan pembeli lelang karena sertifikat hak milik yang dijadikan objek lelang seharusnya dimusnahkan oleh kantor pertanahan. Terhadap tanah yang sama telah muncul dua sertifikat berbeda yang masing-masing didapatkan melalui jual beli di hadapan Pejabat Pembuat Akta Tanah PPAT dan melalui mekanisme lelang. Tesis ini akan membahas mengenai bagaimanakah perlindungan pembeli lelang yang telah memenuhi prosedur sesuai dengan peraturan perundang-undangan serta perlindungan hukum bagi kreditor yang telah menerima pembayaran dari pembeli lelang dalam perkara Nomor 300 PK/Pdt/2009. Adapun metode penelitian yang digunakan adalah yuridis normatif dengan tipe penelitian eksplanatoris dengan menggunakan data sekunder yang bersumber dari kepustakaan. Dari pembahasan tesis ini, pembeli lelang dilindungi dengan cara mengajukan gugatan ganti kerugian kepada pihak yang menerima pembayaran lelang melalui pengadilan negeri. Dalam kasus ini, kreditor tidak mendapatkan perlindungan. Untuk itu, ia dapat mengajukan gugatan ganti kerugian kepada kantor pertanahan terkait akibat timbulnya sertifikat ganda.

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ABSTRACT

An auction purchaser who has complied with the auction procedure in accordance with the laws and regulations should be protected by law. However, there was a verdict which defeated the auction purchaser because of title certificate of the auction object should be destroyed by the land office. Over the same plot of land, there were two different certificates, each of it obtained through a land sale drawn up before a Land Deed Official PPAT and another one obtained through the auction. This thesis discusses on how the protection of the auction purchaser where the auction conducted in accordance with prevailing laws and regulations as well as legal protection for a creditor who has been received the payment from the auction purchaser in Case Number 300 PK Pdt 2009. The method of this research is normative judicial method with the type of explanatory research using secondary data obtained from the literature. From the discussion of this thesis, the purchaser can be protected by way of filing a compensation claim to Denpasar District Court addressed to the creditor who has been received the auction payment. In this case, no legal protection given to the creditor and accordingly, they can file a compensation claim to the relevant land office because of the existence of double certificates issued caused by their action negligence.